

HAVA Compliant Voting Equipment

A Best Practices Guide for Indiana Counties

The purpose of this document is to assist county officials in the evaluation of new voting systems as part of obtaining the upgraded voting systems required under the Help America Vote Act of 2002 (HAVA) and Indiana state law.

Indiana law requires that before a voting system is marketed, sold, leased, installed or implemented in Indiana, the voting system vendor must FIRST have the specific hardware and software used in that model of the voting system certified by the State Election Commission. You should ask any vendor to provide you with a written statement that the model of the voting system that you are thinking about purchasing has been certified for use in Indiana. The current list of certified Indiana voting systems may also be found on the Election Division web page.

In no way is the Secretary of State's office advocating one vendor over another or one type of certified Indiana voting system over another. This is a decision county election officials wanted to continue to make and should be made by the county.

Selection Phase

Q) Who chooses a system or vendor?

A) Many county officials will be involved in this decision. All purchasing contracts must be approved by the County Commissioners; all county funds may only be spent after appropriation by the County Council. However, other county offices (and county voters!) may have input to offer in making this choice.

In some counties, the Circuit Court Clerk or the Election Board will take the lead in making recommendations regarding the choice of a system and vendor. In some counties, county election officials have encouraged as many voters as possible to try out several different types of voting systems, and to provide feedback about the advantages of each model.

Q) Should I involve the voting public in the decision?

A) This is up to you. However, vendor and demonstration fairs have been well-received by the public and media when they have occurred. You are most likely to see the best a vendor has to offer if there are more people involved in the demonstration.

Q) If we are considering a number of vendors, whom should we choose?

A) To make the best decision, you need all the information. Consider inviting ALL vendors with certified election equipment to make a presentation to your county election officials. After seeing the widest variety of systems, you can make a decision about whether one model is what you prefer, or whether you may want to have two or more models shown to a wider group for evaluation.

You should ask a vendor if that vendor has a “Quantity Purchasing Agreement” for the model that is currently in effect with the State of Indiana. If not, you should consult with the county attorney since you may be required to put this out to bid in the same manner as other county purchases. If the vendor has a QPA in effect with the state, then you can purchase from that QPA without bids. You may even be able to negotiate a lower and better price for the system, since the state QPA only sets a “ceiling” price that the vendor cannot go above.

County officials have been choosing the vendor and system they feel best represents their respective county’s needs. Choose a vendor and system with which you are the most comfortable. **Ask other counties using the same system or vendor how they feel about their decision.**

Contract Phase

Congratulations on selecting new equipment! Now you will have to negotiate the terms of your contract with the vendor. It is a good idea to discuss contract terms with other counties to better understand what they were able to accomplish that may also benefit your county. You should also make certain that your county attorney is aware that a purchase contract will be coming before the Commissioners. The following are some things to consider when negotiating your county’s contract:

- Many counties have specified in the contract the first payment is not due until the county receives HAVA reimbursement funds.
- Understand that currently only the following expenditures are eligible for HAVA reimbursement: **ONLY voting systems, software, and equipment required to operate the voting systems, loan interest, and contract fees. Since this program involves federal funds, there may be additional federal audit and other restrictions.**
- A county may **only** use the HAVA funds it receives from the state to pay for voting systems, or if the county has already paid some of the bill for the new voting systems, for election improvements under HAVA.
- The voting system reimbursement funds must be kept in separate accounts established by the county auditor. This may affect how a county decides to budget and spend its money on voting systems. For example, if a county uses a cumulative capital fund to buy voting systems, any state reimbursement

CANNOT be repaid into the cumulative capital fund, but must be kept separate in the county's voting system account. Extra funds **may not** revert to the county general fund at the end of the fiscal year. Any interest earned on state reimbursement funds is subject to the same restrictions.

- HAVA funds received by the county must first be used to pay the county's obligation for the voting systems.
- The State Board of Accounts requires funding to be set aside in the amount of any contract into which the county enters. To meet this accounting requirement, counties have appropriated the necessary funds for the contract. However, those counties did not spend the funds on the equipment. The counties waited until they received HAVA reimbursement funds from the state before making a payment. The unused appropriation by the county council was then no longer encumbered for voting machines.
- Any obligation you have entered into beyond what is set aside for your county in the State Plan will have to be paid out of county funds. Counties urged the Vote Indiana Team to allow them to make the decision as to the type of machine and vendor to choose. Spend wisely and get the best deal!

Reimbursement Phase

After your county enters into a contract with the chosen vendor to provide voting equipment, your county may apply for HAVA reimbursement funds through the Secretary of State's office and Indiana Election Division. There are a number of checks and balances that go into the reimbursement process, and the Secretary of State and Election Division will move the reimbursement through the process as quickly as possible. Before any reimbursement is made, it must be reviewed by the State Budget Committee and State Budget Agency.

- Counties have only received HAVA funds for reimbursable expenses. Currently, this does not include service contracts or extended warranties.
- Tier A counties (those counties that used a punch card or lever machine voting system in the 2000 General Election) are entitled up to \$8,000 per precinct and up to \$50,000 total for software. Tier B counties (everyone else) are entitled up to \$4,000 per precinct and up to \$50,000 total for software.
- Currently, counties are only reimbursed for their cost of reimbursable expenses; any additional funds allocated to the specific county but not spent will stay in the state HAVA account. However, those funds will remain reserved for the county until drawn upon, or until there is a change to the State HAVA Plan. It is possible that unused appropriated funds allocated to a specific county may be sent to the county for other election uses should amendments to the State Plan permit it.
- Counties that paid for voting machines with county funds have used the HAVA funds to do the following: make polling places accessible, purchase office furniture or cabling for the Statewide Voter Registration System, purchase additional voting equipment, and reimburse staff for election

training costs, to list a few examples. Consult with the HAVA Administrator for additional information regarding the uses of these funds permitted under the State Plan or under federal audit standards.

These best practices have been compiled to assist counties by making voting system decisions easier. However, this is not a “one size fits all” document. Each county’s needs and situation is unique, and not all of these ideas will work for everyone. Attached is a spreadsheet providing information about counties that have moved forward with the replacement or enhancement of their voting systems. It should assist counties in knowing which counties to contact for advice regarding new voting equipment.

Please let this office know if there are other ways that we can assist you with this important decision!